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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,790	02/07/2002	John Marshal Reed	112056-0033	2877
24267	7590	06/20/2005	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			ELAMIN, ABDELMONIEM I	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,790

Applicant(s)

REED ET AL

Examiner

A Elamin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/28/2003 6/1/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

AD

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Dennis, US. Pat. No. 6792556.

3. Claims 1, 7, 13, 17-18 and 21, Lee teaches a removable nonvolatile memory device for use in a file server having an operating system kernel [*title, abstract*], comprising:

a plurality of partitions, each of the plurality of partitions capable of storing differentiated information [*col. 5, lines 63-65*];

a first kernel image, the first kernel image stored in a first partition of the plurality of partitions [*MBR 202 of fig. Fig. 2*]; and

a second kernel image, the second kernel image stored in a second partition of the plurality of partitions [*col. 6, lines 9-12*].

4. Claim 2, Dennis teaches the second kernel image is a last known good kernel [*col. 3, 19-28*].
5. Claim 3, Dennis teaches a set of boot instructions including instructions for booting from the first kernel image [*abstract*].

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6. Claim 4, Dennis teaches instructions for booting from the second kernel image if an error event occurs during booting from the first kernel image [*steps 312-314 of Fig. 3*].
7. Claims 5-6, 11-12, Dennis teaches a set of diagnostic software, the diagnostic software stored in a third partition of the plurality of partitions [*col. 3, lines 48-53*].
8. Claim 8, Dennis teaches the removable nonvolatile memory device is a compact flash [*col. 9, lines 8-11*].
9. Claim 9, Dennis teaches the second kernel image is a last known good kernel [*col. 3, 19-28*].
10. Claim 10, Dennis teaches the set of boot instructions are contained in firmware within the file server system [*abstract*].
11. Claims 11-12, Dennis teaches the file server system of claim 6 further comprising a third partition of the plurality of partitions, the third partition containing diagnostic software [*col. 3, lines 48-53*].
12. claim 14, Dennis teaches the current boot kernel location is a first partition of the removable nonvolatile memory device [*Fig. 2*].
13. claim 15, Dennis teaches the last known good kernel location is a second partition of the removable nonvolatile memory device [*col. 3, 19-28*].
14. Claim 16, Dennis teaches one or more storage disks operatively interconnected to the file server system [*Fig. 2*].
15. Claims 19-20 and 22, Dennis teaches verifying the copy of the old kernel written to the second partition before adjusting the set of boot variables so that the computer will boot from the second partition [*abstract, Fig. 3*].

Conclusion

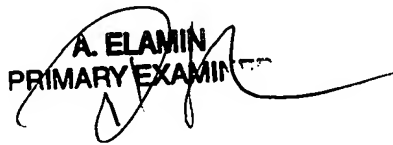
Any inquiry concerning this communication or earlier communications from the examiner should be directed to A Elamin whose telephone number is (571) 272-3674. The examiner can normally be reached on MON-FRI 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 10, 2005

A. ELAMIN
PRIMARY EXAMINER



A Elamin
Primary Examiner
Art Unit 2116